

In Illinois, if a machine qualifies as a coin-operated amusement device or a redemption machine, its operation does not violate the Criminal Code so long as it is licensed and operated in compliance with the Coin-Operated Amusement Device and Redemption Machine Tax Act. See 35 ILCS 510. (This is a GIL).

July 17, 2000

Dear Xxxxx:

This letter is in response to your letter dated April 18, 2000. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Our company handles, freestanding coin operated photo booths, sticker machines, kiddie rides and the above mentioned **Auto Crane booths**. Recently, we have run into an issue in the CITY regarding the Auto Crane booths, specifically that the booths require a Illinois State Decal, resulting in the location being fined for not having both the city and state decal.

In my dealings with the CITY it was never indicated that the city decal was needed, and that has now been clarified and dealt with, and we're being told that the state has the same requirement. However, after speaking with the Illinois Dept. of Revenue today, we have been told that the state decal is not required for these booths. We are therefore at this time requesting a letter of some explanation regarding this issue.

If there are any questions regarding this matter, please do not hesitate to contact me directly Monday through Friday, 7:30am through 4:00pm at ####.

In Illinois, if a machine qualifies as a coin-operated amusement device or a redemption machine, it is legal so long as it is licensed and operated in compliance with the Coin-Operated Amusement Device and Redemption Machine Tax Act ("the Act"). See 35 ILCS 510. Any such machine that does not constitute a coin-operated amusement device or a redemption machine is a gambling device and its operation is in violation of the Illinois Criminal Code of 1961.

The Act applies to both coin-operated amusement devices and redemption machines. A coin-operated amusement device includes any "...device operated or operable by insertion of coins, tokens, chips or similar objects...which returns to the player thereof no money or property or right to receive money or property..." See 35 ILCS 510/1.

A redemption machine is defined at Section 28-2(a)(4) of the Criminal Code of 1961 as:

"...a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target, provided that all of the following conditions are met:

- (A) The outcome of the game is predominantly determined by the skill of the player.
- (B) The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score.
- (C) Only merchandise prizes are awarded.
- (D) The average wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed the lesser of \$5 or 7 times the cost charged for a single play of the device.
- (E) The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device." 720 ILCS 5/28-2(a)(4).

As stated above, coin-in-the-slot-operated amusement devices and redemption machines are legal in Illinois when conducted in accordance with the provisions of the Act and all regulations promulgated thereunder. See, 35 ILCS 510/1 et seq. and corresponding regulations at 86 Ill. Adm. Code 460.101 et seq. The Act imposes an annual privilege tax on the privilege of operating such machines (evidenced by a decal). If your Auto Crane Booths qualify as redemption machines, they are subject to the tax and require the decal.

For your general information, please note that persons engaged in the operation of redemption machine games or coin-operated amusement devices are not in the business of selling tangible personal property at retail and do not incur Retailers' Occupation Tax liability on the gross receipts from the operation of those games. However, these games are treated for tax purposes similar to games of chance. See the enclosed copy of 86 Ill. Adm. Code 130.1975. Operators incur Use Tax on the purchase price of the tangible personal property that the operators provide as prizes for the games. Such operators may not provide

July 17, 2000

Certificates of Resale when purchasing the tangible personal property that is to be provided as prizes. If the operators have not paid the Use Tax to Illinois suppliers, they must register and remit the tax to the Department of Revenue.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk

Enc.